

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 263 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE N.J.PANDYA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

STATE OF GUJARAT

Versus

RATILAL AMBALAL PATEL

Appearance:

Criminal Revision Application No. 263 of 1993

SUO MOTU for Petitioner

MR ST MEHTA, ADDL.PP for respondent-State

CORAM : MR.JUSTICE N.J.PANDYA

Date of decision: 27/08/97

ORAL JUDGEMENT

While dealing with Misc.Criminal Applications Nos.1587 of 1992 and 1472 of 1993, on 9th July 1993 itself, it was felt that, for original accused nos.4 and 7 to 19, there appears to be non-application of mind on the part of the ld.Metropolitan Magistrate who took cognizance and passed an order issuing process under Section 138 read with Section 141 of the Negotiable Instruments Act.

On perusing the original record, the aforesaid

aspect is confirmed. The accused no.4 is referred to as Board of Directors only. The accused no.7 is referred to as a Private Limited Company by which itself has nothing to do with the Company which has issued cheques. Accused nos.8 to 15 are the officers of the Banks referred to with their respective designations. Of them, accused nos.13, 14 and 15 have applied by way of separate Misc. Criminal Applications referred to above. Accused no.16 is Proprietor of Mihir Automobiles; Accused no.17 is one Paresh M.Vyas; Accused no.18 is a person who has introduced the Account; and Accused no.19 is one Jayesh Dave, the landlord of the premises. For offence under Negotiable Instruments Act where the cheque is returned though all or any of the accused could have been made party to a complaint and much worse, cognizance could have been taken by the ld.Metropolitan Magistrate is beyond comprehension.

It is a clear case of non-application of mind and, therefore, the complaint filed is required to be quashed and set aside. The Office is directed to ascertain the particulars as to the Presiding Officer of the Metropolitan Magistrate Court No.9 on 23.1.1992 and place the same before this Court on the next date for passing further orders. So far as the complaint is concerned, it is obviously not maintainable. Accordingly, this revision application is allowed and except for passing further orders as indicated above, the matter is kept over to 4th September 1997. Rule is made absolute accordingly.

sreeram.